

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-670-W/S - ORDER NO. 97-255
MARCH 27, 1997

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IN RE: Application of Mountain Bay Estates) ORDER
Utility Co., Inc. for an Increase in) ON REMAND
its Water and Sewer Rates.)

This matter comes before the Public Service Commission of South Carolina (the Commission) on remand, pursuant to the November 19, 1997 Order of the Honorable L. Henry McKellar of the Court of Common Pleas, Fifth Judicial Circuit. That Order held, inter alia, that this Commission was directed to rule upon the rate application of Mountain Bay Estates Utility Company, Inc. (Mountain Bay or the Company), based upon the existing record and excluding enhancement fees as utility revenue. Upon consideration, we find that specifically following the Court's Order would result in an approximately \$132,000 increase in utility revenue being allowed for the Company, and that a rate increase to the customers from \$8.00 per month to approximately \$50.00 per month would result. We believe that this constitutes "rate shock" to the utility's customers, and therefore, perpetrates a grave injustice on them. We must accordingly decline to order the Company's requested increase.

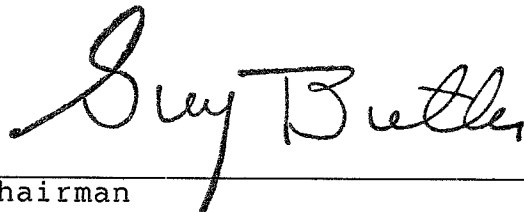
While it is well settled law in South Carolina that the mandate of a reviewing Court becomes the law of the case on remand, the doctrine may be excused where there are extraordinary

circumstances or where compliance with the mandate would result in grave injustice. In Re: Estate of Rochez, 146 Pa. Cmwlth 414, 606 A. 2d 563 (1992); 5 Am. Jur. 2d, Appeal and Error, Section 793. The rule of "the law of the case" is one largely of convenience and public policy, both of which are served by stability in judicial decision, and it must be accommodated to the needs of justice by the discriminating exercise of judicial power. See 606 A. 2d at 565.

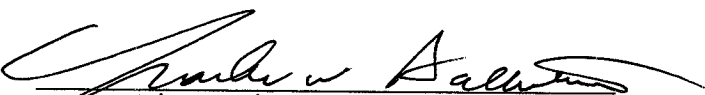
We hold that the increase in monthly charges for water service and wastewater treatment from \$8.00 to \$50.00 would definitely constitute "rate shock" to the customers of Mountain Bay. We cannot in good conscience approve such an increase. We believe that such an increase constitutes both an extraordinary circumstance and a grave injustice to those customers. We therefore must respectfully, and with great reluctance, decline to follow the ruling of the Circuit Court, and deny the increase. We reaffirm our prior Orders in this Docket.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)